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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,705	03/23/2004	Herbert Fruh	GMM/414/PC/US	5951
2543	7590	09/15/2004		
ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			EXAMINER HRUSKOCI, PETER A	
			ART UNIT 1724	PAPER NUMBER

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/808,705	FRUH ET AL.	
	Examiner	Art Unit	
	Peter A. Hruskoci	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004 and 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 “selected from the group comprising” is considered improper Markush language and should be changed to – selected from the group consisting of -. Claim 1 is considered incomplete because it is essential that the group of polyaluminum compounds include polyaluminum compounds recited in claim 2 to provide clear antecedent basis. Claims 2-13 depend from claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haase in view of Kuo et al. and Allenson et al. Haase disclose (see col. 3 line 34 through col. 8 line 18) disclose a composition of matter substantially as claimed. The claims differ from Haase by reciting that the composition includes a specific polyaluminum compound and magnesium or calcium compound. Kuo et al. disclose (see col. 1 line 25 through col. 3 line 68) that it is known in the art to utilized polyaluminum-iron halide solutions as a coagulant for waste water. Allenson et al. disclose (see col. 1 line 65 through col. 4 line 42) that it is known in the art to utilize magnesium and calcium chloride in combination with polyDADMAC polymers, to aid clarifying contaminated water. It would have been obvious to one skilled in the art to modify the composition of Haase by including the recited polyaluminum compound, and magnesium or calcium compound in view of the teachings of Kuo et al. and Allenson et al. respectively, to aid in

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coagulation and clarification of water. The specific weight parts, amounts, and percentages utilized in the composition, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific use for the composition and results desired, absent a sufficient showing of unexpected results.

Applicant's election with traverse of Claims 1-13 is acknowledged. The traversal is on the ground the Examiner has not shown it would be a serious burden to perform a search and examination on all of the claims as originally filed. This is not found persuasive because a serious burden on the Examiner may be prima facie shown by either separate classification, separate status in the art, or different fields of search. The composition of Group I has a separate classification and status in the art, and would require a different field of search from the method of Group II. The method claims of Group II would require the examination of different issues of patentability from the composition claims of Group I. Furthermore, the law has long been established that dependent inventions may be restricted if they are distinct inventions (see MPEP 802.1). The inventions of Group I and Group II are considered to be distinct from one another in accordance with MPEP 806.05(h).

The requirement is still deemed proper and is therefore made FINAL.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

9/14/04